

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

|   |   |                |
|---|---|----------------|
| <b>Warren and Celeste Tukes</b>           | : |                |
| <b>-vs-</b>                               | : | <b>09-0195</b> |
| <b>Peoples Gas Light and Coke</b>         | : |                |
| <b>Company</b>                            | : |                |
|   | : |                |
| <b>Complaint as to billing/charges in</b> | : |                |
| <b>Chicago, Illinois.</b>                 | : |                |

**RESPONDENT’S REPLY BRIEF**

Now comes the Respondent, The Peoples Gas Light and Coke Company (“Peoples Gas” or “Respondent”) and files this Reply Brief in response to Complainants’ Closing Brief filed by Celeste Tukes (“Complainant” or “Ms. Tukes”).

**SUMMARY OF RESPONDENT TESTIMONY**

At the evidentiary hearing held on August 6, 2009, Peoples Gas presented the testimony of John Riordan, a Billing Supervisor. Mr. Riordan was familiar with the complaint and had spoken to Ms. Tukes. He testified that he never told Ms. Tukes that he did not have her records to review. (Tr. 75) He testified that he provided Ms. Tukes with duplicate bills because original bills are issued to customers, Respondent does not retain a copy of the original bill, so any bill images retained by Respondent are marked “Duplicate.” So the duplicate is really an original bill. (Tr. 75)

Mr. Riordan sponsored numerous exhibits taken from the books and records of Peoples Gas kept in the ordinary course of its business. The first exhibit, Respondent’s Exhibit 1A, was an Account Statement, which noted that on April 14, 2008, a billing correction was made based on information received from a serviceperson at Complainants’ residence installing an ERT device. (Tr. 77) Previous billing estimates were too high. (Tr. 78) Peoples Gas went back and cancelled the bills from September 5,

2007 through April 4, 2008. The net amount of those bills was \$1,188.66 and, at the same time, cancelled \$28.16 of late charges. (Tr. 78) So on April 14, 2008, Complainants' gas account reflected a balance of \$1,090.75; however, when the previous bills were cancelled along with the late fees, Complainants' account showed a credit of \$126.07. (Tr. 79) Exhibit 1A also reflected a credit of \$443.61 due to the cancellation of billings from April 4, 2007 through September 5, 2007, when the Complainants' meter was read at index 7572. (Tr. 80) Mr. Riordan explained to Ms. Tukes that when she was re-billed on May 2, 2008, she was re-billed \$1,119.66 based on an incorrect reading of the meter at an index of 8572, rather than 7572. (Tr. 81-82)

Mr. Riordan testified that when Peoples Gas discovered the first billing error, the account was re-billed on June 9, 2008 to the correct meter reading of 7572, which then resulted in a corrected balance on Complainants' account of \$237.08. (Tr. 83) He described the re-billing process of Complainants' account and how that process was in accordance with "unbilled service" of the Illinois Commerce Commission rules. (Tr. 85)

Mr. Riordan testified regarding the original re-billing in error as evidenced by Respondent Exhibits 1B and 2. He noted that the first incorrect billing on May 2, 2008 was for \$1,182.98. (Tr. 86) Respondent Exhibit 1C was the June 9, 2008 re-billing. Respondent Group Exhibit 3 and Exhibit 1C, reflect the re-billing based on the actual meter reading index of 7572. (Tr. 86-88) Mr. Riordan testified that, other than one estimated reading, all readings subsequent to May 2008, using the ERT device attached to Complainants' gas meter were actual readings. He testified that as of August 26, 2009, the balance on Complainants' gas account was \$18.85, \$331.62 was in dispute, and so the total balance on the account was \$350.47. (Tr. 89)

## **REPLY TO COMPLAINANTS' FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **I. Was Complainant Due a Credit or Refund “only” After Actual Reading?**

Ms. Tukes is correct that there is no evidence that Peoples Gas's technician, Braxton Hughes, misread the meter. However, for billing purposes, the index was incorrectly transcribed as 8572 and not 7572, the correct reading. The higher reading resulted in an incorrect re-billing on May 2, 2008. When it was determined that the actual meter reading should have been to an index number of 7572, Peoples Gas made a second re-billing going back one year, as allowed by 83 Illinois Adm. Code 280.100, Unbilled Service, Section a) 1).

### **II. Was Respondent Responsible to Complainant's Billing Requests?**

The answer is yes. While Mr. Riordan cannot speak to what occurred between a Peoples Gas Service Representative and Ms. Tukes, he testified that he provided Ms. Tukes with the “Duplicate Bills” she requested. Ms. Tukes emphasis on receiving “original” bills is mis-placed. Mr. Riordan explained in detail that duplicate and original bills are alike. Original bills are sent to Ms. Tukes and all other Respondent customers and are not retained as such. The images of the original bills are what is retained as duplicate bills. Complainants have been provided all the bills in duplicate form.

### **III. Were “Rebillings” in Violation of Commission Regulations?**

#### **a. Discovery of First “Rebilling”**

Contrary to Ms. Tukes' conclusions, the re-billing process for the second re-billing covered only a 12-month period and so was within the Commission rules, 83 Ill. Adm. Code 280.100 a)1). Second, Ms. Tukes mis-reads Section 100 regarding unbilled

service. Section 280100 b) makes it clear that Respondent can go back one year for “unbilled or misbilled” service. Third, a degree day analysis does take into account temperature variances, particularly in the winter. Fourth, the starting point for the re-billing was February 2007 in order to comply with Section 280.100. To go back to December 2005, would violate Section 280.100. Finally, Ms. Tukes argument that the rates charges violate 220 ILCS 5/9-101 is misplaced. Complainants are Rate 1 customers of Peoples Gas. There was no evidence presented that the rates charged Ms. Tukes, the cost per therm of gas on her bills was greater than approved by the Commission.

**b. Discovery of yet another “Rebilling”**

In addition to objecting to the second rebilling, Ms. Tukes also contends that there Are computational errors in the second rebilling. Ms. Tukes is incorrect. As set forth on Respondent’s Exhibit 3, the second re-billing along with Respondent’s Exhibit 1C properly show the correct calculations for re-billing within the previously stated Commission guidelines.

**IV. Dispute Procedure/Late Fees**

Respondent agree with Ms. Tukes that the complaint was filed within the appropriate time lines set forth in 220 ILCS 5/9-252.1. Contrary to Ms. Tukes assertion, there was no late fee charged on the 8/08 bill.

**V. Misrepresentation of Material Provided During Discovery**

Contrary to Ms. Tukes’ contentions, Peoples Gas has provided her with any and all information she has requested. Peoples Gas does not retain original bills and provided her with duplicate bills The bills provided reflected charges that are on their face just and

reasonable based on rates approved by the Commission. In a like manner, the Respondent's bill format is one that has been approved by the Commission. There has been no misrepresentation by Peoples Gas personnel as set forth in 220 ILCS 5/5-202.1. Moreover, Section 5/5 does not apply to utility customers. It is applicable to utility reporting to the Commission. There is no evidence of any deceptive practices by Respondent.

Peoples Gas also objects to the Chart prepared by Ms. Tukes on page 17 of Complainants' Closing Brief. Ms. Tukes could have presented it at the evidentiary hearing as part of her evidence, but failed to do so. Respondent would then have had the opportunity to cross-examine her on the Chart. Respondent was thus denied its entitled due process. The top part of the Chart is taken from Respondent's Exhibit 1A and is correct. The bottom half of the Chart, prepared by Ms. Tukes is wrong. To explain further, on June 9, 2008, as part of the second re-billing the Complainants were given a credit of \$718.05. When their account was re-billed, that credit was eaten up by the re-bills. That is, the second re-billing was for unbilled service. The second re-billing re-billed the account to the correct amount of gas usage. Thus, Respondent's Exhibit 1A and the top of the Chart showing an amount owed of \$217.08 is correct.

### **CONCLUSION**

Based upon the evidence presented, the second rebilling of the Complainants' gas account was proper within the guidelines of 83 Ill. Adm. Code 280.100. The complaint filed by Warren and Celeste Tukes on April 13, 2009 should be denied.

Respectfully submitted,  
The Peoples Gas Light and Coke Company

By: \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 1, 2009, I served the foregoing Respondent's Reply Brief by causing a copy thereof to be electronically filed or e-mailed to each of the parties as indicated below:

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